

HB0327



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0327

by Rep. Scott Drury

SYNOPSIS AS INTRODUCED:

225 ILCS 10/4.2
720 ILCS 5/17-24

from Ch. 23, par. 2214.2

Amends the Criminal Code of 2012. Expands the fraud statute to include fraudulent schemes and artifices that do not include wire or mail transmission. Makes a conforming change in the Child Care Act of 1969.

LRB100 04208 SLF 14214 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Child Care Act of 1969 is amended by
5 changing Section 4.2 as follows:

6 (225 ILCS 10/4.2) (from Ch. 23, par. 2214.2)

7 Sec. 4.2. (a) No applicant may receive a license from the
8 Department and no person may be employed by a licensed child
9 care facility who refuses to authorize an investigation as
10 required by Section 4.1.

11 (b) In addition to the other provisions of this Section, no
12 applicant may receive a license from the Department and no
13 person may be employed by a child care facility licensed by the
14 Department who has been declared a sexually dangerous person
15 under "An Act in relation to sexually dangerous persons, and
16 providing for their commitment, detention and supervision",
17 approved July 6, 1938, as amended, or convicted of committing
18 or attempting to commit any of the following offenses
19 stipulated under the Criminal Code of 1961 or the Criminal Code
20 of 2012:

21 (1) murder;

22 (1.1) solicitation of murder;

23 (1.2) solicitation of murder for hire;

- 1 (1.3) intentional homicide of an unborn child;
- 2 (1.4) voluntary manslaughter of an unborn child;
- 3 (1.5) involuntary manslaughter;
- 4 (1.6) reckless homicide;
- 5 (1.7) concealment of a homicidal death;
- 6 (1.8) involuntary manslaughter of an unborn child;
- 7 (1.9) reckless homicide of an unborn child;
- 8 (1.10) drug-induced homicide;
- 9 (2) a sex offense under Article 11, except offenses
- 10 described in Sections 11-7, 11-8, 11-12, 11-13, 11-35,
- 11 11-40, and 11-45;
- 12 (3) kidnapping;
- 13 (3.1) aggravated unlawful restraint;
- 14 (3.2) forcible detention;
- 15 (3.3) harboring a runaway;
- 16 (3.4) aiding and abetting child abduction;
- 17 (4) aggravated kidnapping;
- 18 (5) child abduction;
- 19 (6) aggravated battery of a child as described in
- 20 Section 12-4.3 or subdivision (b) (1) of Section 12-3.05;
- 21 (7) criminal sexual assault;
- 22 (8) aggravated criminal sexual assault;
- 23 (8.1) predatory criminal sexual assault of a child;
- 24 (9) criminal sexual abuse;
- 25 (10) aggravated sexual abuse;
- 26 (11) heinous battery as described in Section 12-4.1 or

- 1 subdivision (a) (2) of Section 12-3.05;
- 2 (12) aggravated battery with a firearm as described in
3 Section 12-4.2 or subdivision (e) (1), (e) (2), (e) (3), or
4 (e) (4) of Section 12-3.05;
- 5 (13) tampering with food, drugs, or cosmetics;
- 6 (14) drug induced infliction of great bodily harm as
7 described in Section 12-4.7 or subdivision (g) (1) of
8 Section 12-3.05;
- 9 (15) hate crime;
- 10 (16) stalking;
- 11 (17) aggravated stalking;
- 12 (18) threatening public officials;
- 13 (19) home invasion;
- 14 (20) vehicular invasion;
- 15 (21) criminal transmission of HIV;
- 16 (22) criminal abuse or neglect of an elderly person or
17 person with a disability as described in Section 12-21 or
18 subsection (e) of Section 12-4.4a;
- 19 (23) child abandonment;
- 20 (24) endangering the life or health of a child;
- 21 (25) ritual mutilation;
- 22 (26) ritualized abuse of a child;
- 23 (27) an offense in any other jurisdiction the elements
24 of which are similar and bear a substantial relationship to
25 any of the foregoing offenses.
- 26 (b-1) In addition to the other provisions of this Section,

1 beginning January 1, 2004, no new applicant and, on the date of
2 licensure renewal, no current licensee may operate or receive a
3 license from the Department to operate, no person may be
4 employed by, and no adult person may reside in a child care
5 facility licensed by the Department who has been convicted of
6 committing or attempting to commit any of the following
7 offenses or an offense in any other jurisdiction the elements
8 of which are similar and bear a substantial relationship to any
9 of the following offenses:

10 (I) BODILY HARM

- 11 (1) Felony aggravated assault.
12 (2) Vehicular endangerment.
13 (3) Felony domestic battery.
14 (4) Aggravated battery.
15 (5) Heinous battery.
16 (6) Aggravated battery with a firearm.
17 (7) Aggravated battery of an unborn child.
18 (8) Aggravated battery of a senior citizen.
19 (9) Intimidation.
20 (10) Compelling organization membership of persons.
21 (11) Abuse and criminal neglect of a long term care
22 facility resident.
23 (12) Felony violation of an order of protection.

1 (II) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

2 (1) Felony unlawful use of weapons.

3 (2) Aggravated discharge of a firearm.

4 (3) Reckless discharge of a firearm.

5 (4) Unlawful use of metal piercing bullets.

6 (5) Unlawful sale or delivery of firearms on the
7 premises of any school.

8 (6) Disarming a police officer.

9 (7) Obstructing justice.

10 (8) Concealing or aiding a fugitive.

11 (9) Armed violence.

12 (10) Felony contributing to the criminal delinquency
13 of a juvenile.

14 (III) DRUG OFFENSES

15 (1) Possession of more than 30 grams of cannabis.

16 (2) Manufacture of more than 10 grams of cannabis.

17 (3) Cannabis trafficking.

18 (4) Delivery of cannabis on school grounds.

19 (5) Unauthorized production of more than 5 cannabis
20 sativa plants.

21 (6) Calculated criminal cannabis conspiracy.

22 (7) Unauthorized manufacture or delivery of controlled
23 substances.

- 1 (8) Controlled substance trafficking.
- 2 (9) Manufacture, distribution, or advertisement of
3 look-alike substances.
- 4 (10) Calculated criminal drug conspiracy.
- 5 (11) Street gang criminal drug conspiracy.
- 6 (12) Permitting unlawful use of a building.
- 7 (13) Delivery of controlled, counterfeit, or
8 look-alike substances to persons under age 18, or at truck
9 stops, rest stops, or safety rest areas, or on school
10 property.
- 11 (14) Using, engaging, or employing persons under 18 to
12 deliver controlled, counterfeit, or look-alike substances.
- 13 (15) Delivery of controlled substances.
- 14 (16) Sale or delivery of drug paraphernalia.
- 15 (17) Felony possession, sale, or exchange of
16 instruments adapted for use of a controlled substance,
17 methamphetamine, or cannabis by subcutaneous injection.
- 18 (18) Felony possession of a controlled substance.
- 19 (19) Any violation of the Methamphetamine Control and
20 Community Protection Act.
- 21 (b-1.5) In addition to any other provision of this Section,
22 for applicants with access to confidential financial
23 information or who submit documentation to support billing, no
24 applicant whose initial application was considered after the
25 effective date of this amendatory Act of the 97th General
26 Assembly may receive a license from the Department or a child

1 care facility licensed by the Department who has been convicted
2 of committing or attempting to commit any of the following
3 felony offenses:

4 (1) financial institution fraud under Section 17-10.6
5 of the Criminal Code of 1961 or the Criminal Code of 2012;

6 (2) identity theft under Section 16-30 of the Criminal
7 Code of 1961 or the Criminal Code of 2012;

8 (3) financial exploitation of an elderly person or a
9 person with a disability under Section 17-56 of the
10 Criminal Code of 1961 or the Criminal Code of 2012;

11 (4) computer tampering under Section 17-51 of the
12 Criminal Code of 1961 or the Criminal Code of 2012;

13 (5) aggravated computer tampering under Section 17-52
14 of the Criminal Code of 1961 or the Criminal Code of 2012;

15 (6) computer fraud under Section 17-50 of the Criminal
16 Code of 1961 or the Criminal Code of 2012;

17 (7) deceptive practices under Section 17-1 of the
18 Criminal Code of 1961 or the Criminal Code of 2012;

19 (8) forgery under Section 17-3 of the Criminal Code of
20 1961 or the Criminal Code of 2012;

21 (9) State benefits fraud under Section 17-6 of the
22 Criminal Code of 1961 or the Criminal Code of 2012;

23 (10) mail fraud, ~~and~~ wire fraud, or fraud under Section
24 17-24 of the Criminal Code of 1961 or the Criminal Code of
25 2012;

26 (11) theft under paragraphs (1.1) through (11) of

1 subsection (b) of Section 16-1 of the Criminal Code of 1961
2 or the Criminal Code of 2012.

3 (b-2) Notwithstanding subsection (b-1), the Department may
4 make an exception and, for child care facilities other than
5 foster family homes, issue a new child care facility license to
6 or renew the existing child care facility license of an
7 applicant, a person employed by a child care facility, or an
8 applicant who has an adult residing in a home child care
9 facility who was convicted of an offense described in
10 subsection (b-1), provided that all of the following
11 requirements are met:

12 (1) The relevant criminal offense occurred more than 5
13 years prior to the date of application or renewal, except
14 for drug offenses. The relevant drug offense must have
15 occurred more than 10 years prior to the date of
16 application or renewal, unless the applicant passed a drug
17 test, arranged and paid for by the child care facility, no
18 less than 5 years after the offense.

19 (2) The Department must conduct a background check and
20 assess all convictions and recommendations of the child
21 care facility to determine if hiring or licensing the
22 applicant is in accordance with Department administrative
23 rules and procedures.

24 (3) The applicant meets all other requirements and
25 qualifications to be licensed as the pertinent type of
26 child care facility under this Act and the Department's

1 administrative rules.

2 (c) In addition to the other provisions of this Section, no
3 applicant may receive a license from the Department to operate
4 a foster family home, and no adult person may reside in a
5 foster family home licensed by the Department, who has been
6 convicted of committing or attempting to commit any of the
7 following offenses stipulated under the Criminal Code of 1961,
8 the Criminal Code of 2012, the Cannabis Control Act, the
9 Methamphetamine Control and Community Protection Act, and the
10 Illinois Controlled Substances Act:

11 (I) OFFENSES DIRECTED AGAINST THE PERSON

12 (A) KIDNAPPING AND RELATED OFFENSES

13 (1) Unlawful restraint.

14 (B) BODILY HARM

15 (2) Felony aggravated assault.

16 (3) Vehicular endangerment.

17 (4) Felony domestic battery.

18 (5) Aggravated battery.

19 (6) Heinous battery.

20 (7) Aggravated battery with a firearm.

21 (8) Aggravated battery of an unborn child.

22 (9) Aggravated battery of a senior citizen.

23 (10) Intimidation.

- 1 (11) Compelling organization membership of persons.
2 (12) Abuse and criminal neglect of a long term care
3 facility resident.
4 (13) Felony violation of an order of protection.

5 (II) OFFENSES DIRECTED AGAINST PROPERTY

- 6 (14) Felony theft.
7 (15) Robbery.
8 (16) Armed robbery.
9 (17) Aggravated robbery.
10 (18) Vehicular hijacking.
11 (19) Aggravated vehicular hijacking.
12 (20) Burglary.
13 (21) Possession of burglary tools.
14 (22) Residential burglary.
15 (23) Criminal fortification of a residence or
16 building.
17 (24) Arson.
18 (25) Aggravated arson.
19 (26) Possession of explosive or explosive incendiary
20 devices.

21 (III) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- 22 (27) Felony unlawful use of weapons.

- 1 (28) Aggravated discharge of a firearm.
- 2 (29) Reckless discharge of a firearm.
- 3 (30) Unlawful use of metal piercing bullets.
- 4 (31) Unlawful sale or delivery of firearms on the
5 premises of any school.
- 6 (32) Disarming a police officer.
- 7 (33) Obstructing justice.
- 8 (34) Concealing or aiding a fugitive.
- 9 (35) Armed violence.
- 10 (36) Felony contributing to the criminal delinquency
11 of a juvenile.

12 (IV) DRUG OFFENSES

- 13 (37) Possession of more than 30 grams of cannabis.
- 14 (38) Manufacture of more than 10 grams of cannabis.
- 15 (39) Cannabis trafficking.
- 16 (40) Delivery of cannabis on school grounds.
- 17 (41) Unauthorized production of more than 5 cannabis
18 sativa plants.
- 19 (42) Calculated criminal cannabis conspiracy.
- 20 (43) Unauthorized manufacture or delivery of
21 controlled substances.
- 22 (44) Controlled substance trafficking.
- 23 (45) Manufacture, distribution, or advertisement of
24 look-alike substances.

1 (46) Calculated criminal drug conspiracy.

2 (46.5) Streetgang criminal drug conspiracy.

3 (47) Permitting unlawful use of a building.

4 (48) Delivery of controlled, counterfeit, or
5 look-alike substances to persons under age 18, or at truck
6 stops, rest stops, or safety rest areas, or on school
7 property.

8 (49) Using, engaging, or employing persons under 18 to
9 deliver controlled, counterfeit, or look-alike substances.

10 (50) Delivery of controlled substances.

11 (51) Sale or delivery of drug paraphernalia.

12 (52) Felony possession, sale, or exchange of
13 instruments adapted for use of a controlled substance,
14 methamphetamine, or cannabis by subcutaneous injection.

15 (53) Any violation of the Methamphetamine Control and
16 Community Protection Act.

17 (d) Notwithstanding subsection (c), the Department may
18 make an exception and issue a new foster family home license or
19 may renew an existing foster family home license of an
20 applicant who was convicted of an offense described in
21 subsection (c), provided all of the following requirements are
22 met:

23 (1) The relevant criminal offense or offenses occurred
24 more than 10 years prior to the date of application or
25 renewal.

26 (2) The applicant had previously disclosed the

1 conviction or convictions to the Department for purposes of
2 a background check.

3 (3) After the disclosure, the Department either placed
4 a child in the home or the foster family home license was
5 issued.

6 (4) During the background check, the Department had
7 assessed and waived the conviction in compliance with the
8 existing statutes and rules in effect at the time of the
9 hire or licensure.

10 (5) The applicant meets all other requirements and
11 qualifications to be licensed as a foster family home under
12 this Act and the Department's administrative rules.

13 (6) The applicant has a history of providing a safe,
14 stable home environment and appears able to continue to
15 provide a safe, stable home environment.

16 (e) In evaluating the exception pursuant to subsections
17 (b-2) and (d), the Department must carefully review any
18 relevant documents to determine whether the applicant, despite
19 the disqualifying convictions, poses a substantial risk to
20 State resources or clients. In making such a determination, the
21 following guidelines shall be used:

22 (1) the age of the applicant when the offense was
23 committed;

24 (2) the circumstances surrounding the offense;

25 (3) the length of time since the conviction;

26 (4) the specific duties and responsibilities

1 necessarily related to the license being applied for and
2 the bearing, if any, that the applicant's conviction
3 history may have on his or her fitness to perform these
4 duties and responsibilities;

5 (5) the applicant's employment references;

6 (6) the applicant's character references and any
7 certificates of achievement;

8 (7) an academic transcript showing educational
9 attainment since the disqualifying conviction;

10 (8) a Certificate of Relief from Disabilities or
11 Certificate of Good Conduct; and

12 (9) anything else that speaks to the applicant's
13 character.

14 (Source: P.A. 99-143, eff. 7-27-15.)

15 Section 10. The Criminal Code of 2012 is amended by
16 changing Section 17-24 as follows:

17 (720 ILCS 5/17-24)

18 Sec. 17-24. Fraud ~~Mail fraud and wire fraud.~~

19 (a) ~~Mail fraud.~~ A person commits ~~mail~~ fraud when he or she:

20 (1) knowingly devises or intends to devise any scheme
21 or artifice to defraud, or to obtain money or property by
22 means of false or fraudulent pretenses, representations,
23 or promises, or to sell, dispose of, loan, exchange, alter,
24 give away, distribute, supply, or furnish or procure for

1 unlawful use any counterfeit obligation, security, or
2 other article, or anything represented to be or intimated
3 or held out to be ~~such~~ a counterfeit or spurious article. ~~+~~
4 ~~and~~

5 (2) (blank). ~~with the intent to execute such scheme or~~
6 ~~artifice or to attempt to do so, does any of the following:~~

7 ~~(A) Places in any post office or authorized~~
8 ~~depository for mail matter within this State any matter~~
9 ~~or thing to be delivered by the United States Postal~~
10 ~~Service, according to the direction on the matter or~~
11 ~~thing.~~

12 ~~(B) Deposits or causes to be deposited in this~~
13 ~~State any matter or thing to be sent or delivered by~~
14 ~~mail or by private or commercial carrier, according to~~
15 ~~the direction on the matter or thing.~~

16 ~~(C) Takes or receives from mail or from a private~~
17 ~~or commercial carrier any such matter or thing at the~~
18 ~~place at which it is directed to be delivered by the~~
19 ~~person to whom it is addressed.~~

20 ~~(D) Knowingly causes any such matter or thing to be~~
21 ~~delivered by mail or by private or commercial carrier,~~
22 ~~according to the direction on the matter or thing.~~

23 (b) (Blank). ~~Wire fraud. A person commits wire fraud when~~
24 ~~he or she:~~

25 ~~(1) devises or intends to devise a scheme or artifice~~
26 ~~to defraud or to obtain money or property by means of false~~

1 ~~pretenses, representations, or promises; and~~

2 ~~(2) for the purpose of executing the scheme or~~
3 ~~artifice, transmits or causes to be transmitted any~~
4 ~~writings, signals, pictures, sounds, or electronic or~~
5 ~~electric impulses by means of wire, radio, or television~~
6 ~~communications.~~

7 ~~(A) from within this State; or~~

8 ~~(B) so that the transmission is received by a~~
9 ~~person within this State; or~~

10 ~~(C) so that the transmission may be accessed by a~~
11 ~~person within this State.~~

12 (c) (Blank). Jurisdiction.

13 ~~(1) Mail fraud using a government or private carrier~~
14 ~~occurs in the county in which mail or other matter is~~
15 ~~deposited with the United States Postal Service or a~~
16 ~~private commercial carrier for delivery, if deposited with~~
17 ~~the United States Postal Service or a private or commercial~~
18 ~~carrier within this State, and the county in which a person~~
19 ~~within this State receives the mail or other matter from~~
20 ~~the United States Postal Service or a private or commercial~~
21 ~~carrier.~~

22 ~~(2) Wire fraud occurs in the county from which a~~
23 ~~transmission is sent, if the transmission is sent from~~
24 ~~within this State, the county in which a person within this~~
25 ~~State receives the transmission, and the county in which a~~
26 ~~person who is within this State is located when the person~~

1 ~~accesses a transmission.~~

2 (d) Sentence. A violation of this Section is a Class 3
3 felony.

4 (e) The period of limitations for prosecution of any
5 offense defined in this Section begins at the time when the
6 last act in furtherance of the scheme or artifice is committed.
7 (Source: P.A. 96-1000, eff. 7-2-10; 96-1551, eff. 7-1-11.)